

REMARKS

I. Introduction

Claims 23 to 25 and 26 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Objection to Claim 25

As regards the objection to claim 25, while Applicants do not necessarily agree with the merits of this objection, to facilitate matters, claim 25 has been amended herein without prejudice as suggested, thereby obviating the present objection. Withdrawal of this objection is therefore respectfully requested.

III. Rejection of Claims 23, 25 and 27 Under 35 U.S.C. § 112, First Paragraph

As regards the rejection of claims 23, 25 and 27 under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement, the Specification is replete with references to ball head 56, and ball head 56 is shown throughout the Figures. Thus, the allegation that "[t]he ball joint 38 . . . is not described as having 'ball heads', nor is there any suggestion that it would include ball heads' is plainly without merit. In view of all of the foregoing, it is respectfully submitted that the present claims fully comply with the written description requirement under 35 U.S.C. § 112, first paragraph, and withdrawal of this rejection is respectfully requested.

IV. Rejection of Claims 23, 25 and 27 Under 35 U.S.C. § 112, Second Paragraph

As regards the rejection of claims 23, 25 and 27 under 35 U.S.C. § 112, second paragraph, the Examiner will note that claims 23 and 27 have been amended herein without prejudice to change "each ball body" to --each ball head--, thereby obviating the present rejection. In view of the foregoing, withdrawal of this rejection is respectfully requested.

V. **Rejection of Claims 23, 25 and 27 Under 35 U.S.C. § 103(a)**

Claims 23, 25 and 27 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,199,925 ("Welschof") and U.S. Patent No. 2,670,975 ("Schwabe"). It is respectfully submitted that the combination of Welschof and Schwabe does not render unpatentable the present claims for at least the following reasons.

The Final Office Action contends that Schwabe discloses that an inner ring with a recess including a cylindrical hole having two securing rings radially extending from two spaced apart grooves is a functional equivalent of a ring with a spherical recess. While Applicants do not necessarily agree with this contention. Even if this statement was accurate -- which is not necessarily conceded -- there is no motivation or suggestion to combine Welschof and Schwabe as proposed in the Final Office Action as there must be in order to reject claims as unpatentable over this combination. In this regard, Welschof describes with reference to Figure 2 an arrangement of flat portions of an intermediate element 12 that face flat surfaces 16, 17 of a head portion 9 such that the intermediate element is able to articulate in the sense of tilting or pivoting on the head portion **but is not able to rotate completely thereabout**. Col. 3, lines 9 to 19. With reference to Figure 4, Welschof describes an arrangement in which a pair of lugs 19 prevent an intermediate piece from rotating about an arm to reach a position in which the intermediate element can be removed from the arm. Col. 3, lines 38 to 68. In stark contrast, Schwabe states that its object is to provide an articulation joint that allegedly provides "**easier assembling and dismantling than has been possible hitherto with ball joints**." Co. 1, lines 6 to 10 (emphasis added). In order to achieve this ease of assembly and dismantling, a linkage is provided that incorporates articulation joints which can be assembled and dismantled "without any tools **simply by turning one of two associated components of the linkage about its longitudinal axis approximately a quarter turn from its operative position**," col. 1, lines 15 to 21 (emphasis added), the **exact** type of movement that Welschof states is prevented to thereby prevent disassembly of the ball joint. Thus, Welschof plainly teaches away from the proposed combination with Schwabe, and Schwabe plainly teaches away from the proposed combination with Welschof. As such, there is no motivation to make the proposed combination.

Moreover, the proposed modification would render the device described by Welschof unsatisfactory for its intended purpose and/or change the principle of operation of the device described by Welschof. As such, there is no motivation to make the proposed modification for this additional reason. In re Gordon, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984) (there is no suggestion or motivation to make a proposed modification if the proposed modification would render the prior art device being modified unsatisfactory for its intended purpose); In re Ratti, 270 F.2d 810, 123 U.S.P.Q. 349 (C.C.P.A. 1959) (the disclosures of references are not sufficient to render claims prima facie obvious if the proposed modification or combination would change the principle of operation of the prior art device being modified).

Simply put, there is no suggestion or motivation for making the proposed combination as there must for a prima facie case of obviousness. Thus, it is respectfully submitted that the proposed combination of Welschof and Schwabe does not render unpatentable the present claims.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

VI. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Date: July 25, 2006 By: Cliff A. Ulrich
Clifford A. Ulrich
Reg. No. 42,194

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO. 26646